

Presentation to the Governor's Commission to Examine Racial Inequity in the Law

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DISCLAIMER

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INTRODUCTION

On May 21st, we presented evidence of racial inequities in Virginia in the areas of housing, education, criminal justice, voting, and health disparities presented by COVID-19. While recommendations today focus specifically on police reform and accountability, the problems that these policies are intended to address are symptomatic of the more pervasive and underlying inequality and disparities present in our society and legal system.

PRIMARY POLICY SOURCES



THE PRESIDENT'S TASK FORCE ON
21ST CENTURY POLICING

CAMPAIGN ZERO

eji **Equal Justice
Initiative**



ACLU
Virginia



- A. Improve data collection and transparency
- B. Improve officer accountability
- C. Address use-of-force through legislation and trainings
- D. Revise/study Virginia's laws on military-grade equipment
- E. Reduce arrests
- F. Police funding reallocation

Improve Data Collection and Transparency

- Expand the requirements of the new Community Policing Act to include **data collection** on street stops and all uses of force.
- Require **more detail** regarding officer-involved shootings, and enforce department reporting.
- **Expand the data collections** statute into an enforceable racial profiling law.
- Repeal **record-protection laws** that exempt law enforcement officers from ordinary oversight.
- Empower and mandate the establishment of local or regional independent **civilian review boards** statewide.

Civilian Review Boards

- **Investigator-focused models** enlist non-police civilian investigators to look into complaints against officers. These agencies tend to have individuals with specialized training.
- **Review-focused models** oversee internal affairs investigations and make recommendations about operations to police. These review boards tend to be staffed by volunteers and community members – an approach that can make the board seem more responsive to the community.
- **Auditing model** agencies fall in between the first two models and focus attention on broad patterns of officer misconduct rather than individual incidents.

Improve Officer Accountability

- Add a provision to §15.2-1707 that provides for the **decertification** of police officers who have participated in a pattern of misconduct.
- Make police **disciplinary records public** statewide.
- Require that alleged crimes committed by police officers be **investigated by the attorney general's office**.
- Increase accountability for officers who act tortiously by revising **sovereign and qualified immunity standards**.
- Mandate statewide adoption of an “**early warning system**.”

Address Use-of-Force Through Legislation and Trainings

- Require the statewide adoption of **use-of-force policies** that meet certain standards.
- Increase time spent on **force-as-last-resort strategies** in DCJS officer training; reduce or reallocate time spent in current force tactics training.
- Add more **community members** to the DCJS Training Committee.

Revise Virginia's Laws on Military-Grade Equipment

- We recommend that the Commission examine, or request a study of, the implications of the **militarization of the police** from an operational and budgetary perspective, the proper role of this capacity, if any, and whether there should be limits, or more oversight, for deployment of both the equipment and its accompanying tactics.

Reduce Arrests

- **Decriminalize** high volume, low-level offenses and use an administrative or civil court to handle citations, tickets, and fines.

Police Funding Reallocation

- **Study police budgets** and research whether public funds can achieve public safety with less risk of police violence.
- Require each locality to establish a **crisis response unit** made of mental health professionals and mediators, instead of sending police officers to every emergency.
- Invest state dollars in **crime prevention**, through education, healthcare, and social services.
 - a. Deeper investment in education programming and student support staff better meets student need than student resource officers (“SROs”) do.
 - b. Investing in increased affordable housing, supportive housing, and eviction assistance better meets the problem of homelessness and neighborhood instability than policing does.
 - c. Investing in treatment, healthcare, and diversion better meets issues of substance use than policing can, even at its best.
 - d. Investing in childcare, afterschool programs, and teen jobs programs reduces crime on the front end by keeping kids supervised and busy.

Prior Criminal Justice Recommendations

- Require the Sentencing Commission to report on all **sentencing outcomes by race and ethnicity**.
- Require **magistrate-level and other reporting** on all pre-trial decisions, including bail decisions, by race.
- Change Compensation Board policies so that Commonwealth's Attorneys **are incentivized to divert cases** and reduce felony charges.
- Reduce **collateral consequences** for felons.
- Identify and change policies and practices that contribute to **disproportionate arrest rates** between white and black Virginians.
- Study and, as appropriate, reduce or eliminate **mandatory minimums**.
- Abolish or limit felony disenfranchisement by amending or repealing Article II, Section I of the **Virginia Constitution**.

DISCUSSION